

**COLORADO COMMISSION OF INDIAN AFFAIRS  
COLORADO LANDS REPATRIATION & REINTERMENT WORKGROUP**

**Title:** *Request for Recommendation Regarding Reburial of Native American Human Remains on State Lands within the State of Colorado*

**Introduction:**

**The remains of over 600 Native American individuals are currently awaiting reburial within the State of Colorado repatriated under the Native American Graves Protection and Repatriation act of 1990 (NAGPRA).**

The Colorado Lands Reinterment & Repatriation Workgroup was assembled in 2011 under the purview of the Colorado Commission of Indian Affairs at the request of the Ute Mountain Ute Tribe of the Ute Mountain Ute Reservation, Colorado, New Mexico & Utah and the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado.

The purpose of this workgroup is to identify potential lands within Colorado for reburial of Native American human remains in museum, university, State, and Federal agency collections. This important issue is being addressed collaboratively within the State of Colorado by a diverse workgroup that includes museums, universities, Federal and state agencies.

**Committee Partners**

Ute Mountain Ute Tribe of the Ute Mountain Ute Reservation, Colorado, New Mexico & Utah Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado  
Colorado Commission of Indian Affairs  
Colorado College  
Colorado Department of Natural Resources  
Colorado State University  
University of Denver  
History Colorado  
University of Colorado  
Denver Museum of Nature and Science  
Bureau of Land Management, Colorado  
Forest Service, Rocky Mountain Region  
National Park Service, Intermountain Region

**Background:**

- The Native American Graves Protection and Repatriation Act is a Federal law passed in 1990 (NAGPRA).
- NAGPRA provides a process for museums and Federal agencies to resolve rights to certain Native American cultural items -- human remains, funerary objects, sacred objects, or objects of cultural patrimony -- to lineal descendants, and culturally affiliated Indian tribes and Native Hawaiian organizations.
- Museums and Federal agencies are required to consult with tribes to make a cultural affiliation determination for Native American human remains in their custody and/or possession.

- “Cultural Affiliation” is defined under NAGPRA as shared group identity, a cultural connection based on the available facts.
- NAGPRA includes provisions for unclaimed and culturally unidentifiable Native American cultural items, intentional and inadvertent discovery of Native American cultural items on Federal and tribal lands, and penalties for noncompliance and illegal trafficking.
- “Culturally Unidentifiable Inventory” (CUI) is defined under NAGPRA as human remains and their associated funerary objects for which no culturally affiliated present-day Indian tribe or Native Hawaiian organization can be reasonably determined.”
- Disposition of Culturally Unidentifiable Native American human remains under NAGPRA is based upon tribal lands or aboriginal occupation. Aboriginal occupation may be recognized by a final judgment of the Indian Claims Commission or the United States Court of Claims, or a treaty, Act of Congress, or Executive Order.
- Native American human remains are often determined to be “Culturally Unidentifiable” under NAGPRA when site origin location and other contextual information is lacking, or due to insufficient evidence with which to make a reasonable basis determination.
- NAGPRA does not explicitly address reinterment (or “reburial”) of Native American human remains repatriated by museums and Federal agencies under NAGPRA.
- Some states and most Federal agencies have the management policy discretion to reinter remains that originated from lands they manage.
- When site origin information is lacking and there are no straightforward reburial location options, most Federal and State agencies require a policy waiver to reinter remains, or have no policy in place.
- Most repatriating tribes prefer State and Federal lands for reinterment to better preserve and protect reburial sites and the confidentiality of the locations in perpetuity.
- Contemporary tribal reservation lands do not necessarily reflect aboriginal occupation and as such, are not the preferred reburial location option for most repatriating tribes. In addition, tribes do not have the personnel available to providing long-term monitoring of reburial sites.
- A limited number of potential reinterment locations are needed to reinter remains as close as possible to their original removal location when known, or current repository location.
- As a result, **the remains of over 600 Native American individuals are currently awaiting reburial within the State of Colorado following repatriation under NAGPRA.**
- Of the ~600 Native American individuals, a vast majority of them are in museum collections not under the control of state and federal land managing agencies. These institutions generally do not have access to lands suitable for reburials though they have an assumed shared responsibility to secure suitable and appropriate location for reburials.
- There will be an on-going need for reburials of Native American individuals repatriated under NAGPRA. At present, 668 individuals originating from the State of Colorado have been reported on the National Park Service, National NAGPRA CUI database. It is likely tribes will desire that they be reinterred in Colorado.
- As museums and agencies continue to consult and complete their inventories, and new discoveries occur on state and private lands, there will be an ongoing need to identify reburial locations within the State of Colorado.

### Proposal:

The Colorado Lands Reinterment & Repatriation Workgroup proposes the following to address this critical issue affecting NAGPRA implementation within the State of Colorado, though it is a national issue. To accomplish the goal of identifying a limited number of potential reinterment locations within the State of Colorado for the reburial of Native American human remains repatriated under NAGPRA, the tribes respectfully ask the State of Colorado to:

Identify specific locations where they would be willing to and able to exercise discretion and where they can be flexible in the application of their management policies to allow reburials of Native American human remains repatriated under NAGPRA.

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